

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PAULZLINA COLLINS,) CASE NO:
))
Plaintiff,) JUDGE:
vs.))
DRS. GROSS, MALCMACHER, THALER,) MAGISTRATE JUDGE:
& ASSOCIATES, LLC d/b/a THE))
HEALTHY SMILE, *et al.*,))
))
Defendants.))

NOTICE OF REMOVAL OF CIVIL ACTION

Defendants, Drs. Gross, Malcmacher, Thaler, & Associates, LLC d/b/a the Healthy Smile, Dr. Donald Thaler, and Dr. Jeffrey Gross, by and through counsel, and pursuant to 28 U.S.C. §1441 and 28 U.S.C. § 1446, file this Notice of Removal and state as follows:

1. On or about March 2, 2017, Plaintiff Paulzlina Collins ("Plaintiff") filed a civil action in the Cuyahoga County Court of Common Pleas where it is now pending under the caption *Paulzlina Collins v. Drs. Gross, Malcmacher, Thaler & Associates, LLC d/b/a the Healthy Smile, et al.*, Case No. CV 17 876873, asserting claims under the federal laws of the United States.
2. Defendants were served with copies of the Complaint on March 10, 2017.
3. Defendants desire to exercise their rights under the provisions of 28 U.S.C. §§ 1441, *et seq.* and 28 U.S.C. §§ 1367, *et seq.*, and to remove this action from the Cuyahoga

County Court of Common Pleas to the United States District Court for the Northern District of Ohio, Eastern Division.

4. This Notice of Removal is being filed within thirty (30) days from receipt of the Complaint by Defendants and is, therefore, timely filed in accordance with 28 U.S.C. § 1446(b).

5. As required by 28 U.S.C. § 1446(a), attached hereto as Exhibit "A," is a copy of all process, pleadings, orders and other filings served upon the Defendants in the state court action.

6. In the state court action, Plaintiff seeks to recover damages for alleged violations of her rights under 29 U.S.C. § 201, *et seq.*

7. Defendants request that the Court invoke its Federal question jurisdiction pursuant to 28 U.S.C. § 1331 because the aforementioned claims arise under the Constitution, treaties and/or laws of the United States.

8. Defendants further request that the Court extend its supplemental jurisdiction pursuant to 28 U.S.C. § 1337 because the Complaint's remaining actions are so related to the aforementioned claim that they form part of the same case or controversy.

9. Notice of this filing is being sent to the Plaintiff and filed with the Clerk of Courts of the Cuyahoga County Court of Common Pleas as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants respectfully request that the United States District Court for the Northern District of Ohio, Eastern Division, accept this Notice of Removal and accept jurisdiction over the state court action.

Respectfully submitted,

/s/ Mark S. Fusco

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Attorney for Defendants

CERTIFICATE OF SERVICE

I certify that the foregoing *Notice of Removal of Civil Action* has been filed this 27th day of March, 2017 through the Court's electronic filing system. A copy of the foregoing *Notice of Removal of Civil Action* was sent by electronic mail and regular U.S. Mail, postage prepaid, to Brian D. Spitz, Esq. (brian.spitz@spitzlawfirm.com) and Daniel S. Dubow, Esq. (daniel.dubow@spitzlawfirm.com) at The Spitz Law Firm, 25200 Chagrin Blvd., Suite 200, Beachwood, Ohio 44122.

/s/ Mark S. Fusco

Mark S. Fusco